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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/882,596	06/15/2001	Ursula Murschall	00/149-2 MFE	8301

7590 04/13/2004  
PROPAT LLC  
2912 CROSBY ROAD  
CHARLOTTE, NC 28211

EXAMINER

SZEKELY, PETER A

ART UNIT PAPER NUMBER

1714

DATE MAILED: 04/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

AS

<b>Office Action Summary</b>	<b>Application No.</b> 09/882,596	<b>Applicant(s)</b> MURSCHALL ET AL.	
	<b>Examiner</b> Peter Szekely	<b>Art Unit</b> 1714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1)  Responsive to communication(s) filed on 04 March 2004.
- 2a)  This action is FINAL.
- 2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4)  Claim(s) 1,3-6 and 8-26 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 1,3-6,8,9,11-23,25 and 26 is/are rejected.
- 7)  Claim(s) 10 and 24 is/are objected to.
- 8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All    b)  Some    \* c)  None of:
    - 1.  Certified copies of the priority documents have been received.
    - 2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    - 3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5)  Notice of Informal Patent Application (PTO-152)
- 6)  Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. Claims 8 and 28 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is no mention of Daltons or organic phosphates in the specification.
2. Claim 8 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is not known whether the claimed molecular weight is weight average, number average, viscosity average, peak average or Z average molecular weight. One of ordinary skill in the art would not know which polymeric carbodiimide to select.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

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the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1, 3-6, 8, 9, 11-23, 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hunter et al. 5,763,538, in view of Heitz et al. 5,733,959, Schultze et al. 6,001,464 or Imashiro et al. 6,126,860, further in view of Murakami et al. 4,264,667, Yatsu et al. 4,390,683, Matsamura et al. 4,517,315, Brozek et al. 5,138,024, Murschall et al. 5,302,427, Anderson II 5,324,467, Bland et al. 5,427,842, Sommer et al. 5,457,018, Peiffer et al. 5,468,527, Schumann et al. 5,554,245, Dries et al. 5,529,843, Mortlock et al. 5,562,984, Rogers et al. 5,804,626, Carlson et al. 5,867,316, DiNicola et al. 6,128,023, Wakabayashi et al. 6,335,336, Tojo et al. 6,503,599 or Nissinbo Industries EP 0 803 538.

6. Hunter et al. disclose biaxial orientation and annealing in column 4, lines 29-38, PET blended with carbodiimide, which can be Stabaxol P, I and P1000 in the paragraph overlapping columns 4 and 5, stretching in two directions and heat setting in Example 15, carbodiimide concentrations in claims 1 and 6 and PET in claim 2. Although carbodiimide is an optional ingredient, it is positively disclosed in the Examples. The blended composition of Hunter et al. can contain conventional additives for stabilizing the composition against oxidative, thermal and UV light degradation (column 3, lines

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3-9). Heitz et al. teach polyester and oligomeric carbodiimide with its concentration in claim 1, hindered phenols in column 12, line 65, PET and PBT in column 3, lines 27-31 and UV stabilizers in column 13, lines 3-6. Schultze et al. recite polyester film in claim 1, carbodiimides, hindered phenols and UV absorbers in column 4, lines 30-44.

Imashiro et al. reveal PET and PBT in column 1, lines 25-30, oxazolines and aromatic carbodiimides in column 1, lines 50-59 and films and carbodiimide concentrations in Examples 4, 7 and 8. All of the tertiary references have been discussed previously. They cover all of the other claimed components and processes claimed by applicants, which are all are customary and well known to one of ordinary skilled in the art, at the time the invention was made, as proven by said references. Since Hunter et al. state that additional stabilizers are conventional additives; their incorporation into applicants' composition is patently obvious.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Szekely whose telephone number is (571) 272-1124. The examiner can normally be reached on 7:00 a.m.-5:30 p.m. Tuesday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Peter Szekely  
Primary Examiner  
Art Unit 1714

P.S.  
4/8/04